

Adams, Hope

From: Wessinger-Hill, JoAnne
Sent: Friday, July 30, 2021 4:26 PM
To: Hall, Roger; Grube-Lybarker, Carri; John J. Pringle, Jr.; Heather Smith; Heather Smith; Pittman, Jenny; fellerbe@robinsongray.com; fellerbe@robinsongray.com; Nelson, Jeff; DeMarco, Tracy S.; Breitschwerdt, E. Brett; jennamcgrath@paulhastings.com; billdegrandis@paulhastings.com
Cc: PSC_Contact; Besley, Sharon
Subject: RE: Hearing Exhibit ** -- (Cross Examination Exhibit No. Hanson) -- DN 2020-263-E
Attachments: Hanson Rebuttal Cross Exhibit 6.pdf

Parties:

Attached is a copy of the Cross Examination Exhibit regarding the Witness on the stand.

Jo Anne

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July 6, 2021

Via Email and Priority Mail

Ms. Carolyne Murff
Senior Vice President
Cherokee County Cogeneration Partners, LLC
1700 Broadway, 35th Floor
New York, NY 10019

Re: Increase in performance security under Power Sales Agreement between Cherokee County Cogeneration Partners, LLC and Duke Energy Carolinas, LLC, dated as of June 28, 2012 and extended by order of the Public Service Commission of South Carolina (the "Commission") on December 30, 2020 and on April 28, 2021 (as extended, the "PPA")

Dear Ms. Murff:

Duke Energy Carolinas, LLC, ("DEC") has reviewed Mr. Hanson's email dated June 25, 2021 in follow up to our discussions regarding DEC's request for an increase to the performance security posted by Cherokee County Cogeneration Partners, LLC ("Cherokee") under the above referenced PPA as communicated to Cherokee in the Notice of Deficiency dated May 24, 2021 and the Notice of Default dated June 15, 2021. In an effort to compromise our differences regarding the amount of performance security that is appropriate to secure Cherokee's obligations under the PPA through the extension period ending on August 28, 2021, DEC is willing to agree to your offer to increase the letter of credit amount specified in your email with the following adjustments:

- On or before August 10, 2021, and before DEC makes payment on the July invoice, Cherokee will increase the letter of credit to a total of \$3,000,000 (an increase of \$2,000,000).
- On or before September 10, 2021, and before DEC makes payment on the August invoice, Cherokee will further increase the letter of credit to a total of \$6,000,000 (an additional increase of \$3,000,000).

These amounts correspond to the deficiencies illustrated in the table provided by Cherokee in your email with the additional security, calculated consistent with the values in your table, required to cover the term beyond the July payment. If Cherokee increases the performance security as specified above, DEC will consider the Default specified in the above referenced Notice of Default to be cured. If Cherokee fails to cure the Default within the period specified above, DEC will withhold the above stated additional security amounts from future payments to Cherokee, commencing with the July 2021 invoice, in accordance with Section 12.2. The retained amounts together with the letter of credit will be held by DEC as security for Cherokee's obligations under the PPA. The retained amounts, less any amount offset to cover Cherokee's obligations under the PPA, shall be returned to Cherokee promptly after Cherokee's satisfaction of its obligations under the PPA, including without limitation, the refund obligations under Section 8.4 if applicable.

The performance security amounts agreed to by DEC in this letter are for the sole purpose of compromising and settling the dispute regarding the amount of performance security that is appropriate to secure Cherokee's obligations under the PPA through the extension period ending on August 28, 2021 and does

not constitute an admission by DEC that the amounts specified in the above referenced Cherokee table are accurate or appropriate. DEC reserves all its rights, remedies and defenses under the PPA or under applicable law and does not waive any right, remedy or defense whether or not specified herein, including the right to request additional security if the PPA is extended beyond August 28, 2021.

If you have any questions regarding this Notice feel free to feel free to contact me at your earliest convenience.

Sincerely,

David B. Johnson

David B. Johnson

Director, Business Development & Compliance

cc (via email):

Michael Keen, Duke Energy

Robert Dewechter, LS Power

Nathan Hanson, LS Power